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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,652	07/13/2001	Hiroshi Isono	110087	8225

25944 7590 02/06/2007
OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/903,652	ISONO, HIROSHI	
	Examiner	Art Unit	
	Bradley T. King	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 5,8,9 and 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,10,11,15-17 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-4, 6-7, 10-11, 15-17 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 2 and 4 were amended on 12/23/2005 to require "during a normal braking operation". The original disclosure fails to provide antecedent basis for this limitation nor is it clear what types of braking operations correspond to "normal" operations.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10-11, 15-16 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohnuma (US# 6322168).

Ohnuma discloses all the limitations of the instant claims including; a power-operated hydraulic pressure source 12 operable to delivery a pressurized working fluid, a brake including a hydraulically operated brake cylinder; a manually operable brake operating member 30; a master cylinder disposed between said power-operated hydraulic pressure source and said brake cylinder and operable to deliver the pressurized working fluid into said brake cylinder, in response to an operation of said manually operable brake operating member; and a flow-rate changing device (26 and/or 34) disposed between said power-operated hydraulic pressure source and said brake cylinder and including said master cylinder 32, said flow-rate changing device being operable to change a relationship between a first rate of flow of the pressurized working fluid from said master cylinder into said brake cylinder, and a second rate of flow of the pressurized working fluid into said master cylinder, such that said relationship is changed according to an operating amount of said brake operating member (note element 34 changes the rate dependent on pressure level, valve 26 operates during brake assist in response to the pedal actuation) during a normal braking operation in which a pressure of the working fluid in said brake cylinder is controlled such that the pressure of the working fluid in said brake cylinder changes with a change of the

operating amount of said operation of said manually operable brake operating member.
Also note the 112 1st rejection above.

Response to Arguments

Applicant's arguments filed 11/17/2006 have been fully considered but they are not persuasive.

Regarding the 112 1st paragraph rejection, it is maintained that the term "normal braking" can be interpreted various ways by one skilled in the art. As the original disclosure fails to support or identify what is considered to be "normal braking", it is maintained that the new limitation constitutes new matter. Note MPEP 2163.02 states,

"If a claim is amended to include subject matter, limitations, or terminology not present in the application as filed, involving a departure from, addition to, or deletion from the disclosure of the application as filed, the examiner should conclude that the claimed subject matter is not described in that application. This conclusion will result in the rejection of the claims affected under 35 U.S.C. 112, first paragraph – description requirement, or denial of the benefit of the filing date of a previously filed application, as appropriate."

Also note MPEP 2163.05 regarding 112 1st and changes in scope. While the references noted by Applicant have been considered, they do not appear to establish a common definition for "normal braking" nor do they indicate what the scope of the term should be in light of the instant disclosure. It is maintained that the instant disclosure fails to

mention any "normal" braking and the addition of the term to the claims constitutes new matter.

Regarding Ohnuma, it is maintained that elements 26 and/or 34 can be considered the flow rate changing device of the instant claims. For example, proportional valve 34 allows unchanged flow or pressure up (Pm/c which includes Pre from the regulator) to a certain pressure level (which corresponds to a change of an operating amount of the brake operating member) then provides the rear wheels with a reduced ratio of the flow or pressure. Note Ohnuma states,

"The P valve 34 supplies the master cylinder pressure PM/C to the first fluid pressure passage 36 and the second fluid pressure passage 38 without change in a range where the master cylinder pressure PM/C is less than a predetermined value. Additionally, the P valve 34 supplies the master cylinder pressure PM/C to the first fluid pressure passage 36 without change and supplies a fluid pressure obtained by decreasing the master cylinder pressure PM/C by a predetermined ratio to the second fluid pressure passage 38 in a range where the master cylinder pressure PM/C is less than a predetermined value." (column 5, lines 54-65).

It is maintained that this mode of operation reads upon the recited flow rate changing device. Further, Valve 26 of Ohnuma operates to change the flow in response to the pedal during an emergency braking mode. It is maintained that this can be considered a "normal operation" as the system is designed to function in this manner. The operation is therefore "normal" as opposed to operations where there are failures or

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abnormalities in the system. The valve 26 is operated in response to operation of the brake pedal so brake cylinder pressure changes with a change of the operating member. Also note the 112 1st rejection above regarding "normal braking". It is maintained that the rejections are proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BTK

Bradley King 2/3/07
BRADLEY KING
PATENT EXAMINER